

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

MURRAY ENERGY CORPORATION, et)
al.,)
Plaintiffs,)
v.) Case No. 5:14-cv-00039-JPB
GINA McCARTHY, in her official capacity)
as Administrator of the UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY,)
Defendant.)
Judge Bailey

**UNITED STATES' EMERGENCY MOTION FOR PROTECTIVE ORDER
PRECLUDING THE DEPOSITION OF EPA ADMINISTRATOR McCARTHY**

Pursuant to Fed. R. Civ. P. 26(c), the United States, on behalf of Defendant Gina McCarthy, Administrator, Environmental Protection Agency (“EPA”), respectfully moves for a protective order precluding the deposition of Administrator McCarthy. The United States respectfully requests that the Court enter an expedited briefing schedule on this motion so that it can be decided in advance of the noticed deposition date, November 24, 2015.¹

As set forth in the supporting Memorandum of Law filed herewith, Administrator McCarthy qualifies as a high-ranking official whose deposition should be barred absent

¹ The United States respectfully requests that the Court rule upon its motion on an expedited basis, not later than November 4, 2015. A ruling within that timeframe is appropriate so that the parties have time to seek further relief or review, if necessary, or to make other arrangements for needed discovery, prior to the November 30 deadline for discovery to be complete. The United States is prepared to file its reply brief on an expedited basis as necessary to ensure that the Court is able to resolve its motion within that timeframe.

extraordinary circumstances. Plaintiffs have failed to carry their burden to establish the extraordinary circumstances necessary to warrant Administrator McCarthy's deposition.

In accordance with Fed. R. Civ. P. 26(c)(1), counsel certifies that the United States has in good faith conferred with counsel for Murray Energy in an effort to resolve this dispute without Court action.

DATED: October 16, 2015

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CERTIFICATE OF SERVICE

I, Erin M. Carter, hereby certify that on this 16th day of October, 2015, I electronically filed the foregoing EMERGENCY MOTION FOR PROTECTIVE ORDER PRECLUDING THE DEPOSITION OF EPA ADMINISTRATOR MCCARTHY with the Clerk of the Court using the CM/ECF system, which will cause a copy to be served upon counsel of record.

/s/ Erin M. Carter

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